



Attorney's Docket No.: 00246-266US1

Image  
164S

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : George A. O'Toole et al. Art Unit : 1645  
Serial No. : 09/673,605 Examiner : V. Ford  
Filed : December 31, 2001  
Title : REGULATION OF BIOFILM FORMATION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REPLY TO NOTICE OF NON-COMPLIANT AMENDMENT

Applicants hereby request that the Notice of Non-Compliant Amendment mailed November 24, 2003 (copy enclosed; Exhibit A) be withdrawn. The Notice of Non-Compliant Amendment states that the Preliminary Amendment filed "12/27/03" was deemed non-compliant because it did not conform to the requirements under 37 C.F.R. §1.121 as amended on June 30, 2003 (68 Fed Reg. 38611). No preliminary amendment was filed on "12/27/03". However, on November 21, 2003 applicants faxed to the examiner, at the examiner's request, a COPY of the preliminary amendment filed on December 20, 2000 so that it could be entered into the record and so that the claims added in the preliminary amendment could be included in the Restriction Requirement of October 2, 2003. The Preliminary Amendment filed on December 20, 2000, complied with the amendment format rules in effect at that time.

Attached (Exhibit B) is a copy of a postcard stamped by the USPTO verifying that a preliminary amendment and a check for \$332 was received on December 27, 2000. Thus, the Preliminary Amendment filed on December 20, 2000 was received by the USPTO.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

December 24, 2003  
Date of Deposit

Carrie A. Amonte  
Signature

Carrie A. Amonte  
Typed or Printed Name of Person Signing Certificate

Applicant : George A. O'Toole et al.  
Serial No. : 09/673,605  
Filed : December 31, 2001  
Page : 2 of 2

Attorney's Docket No.: 00246-266US1 / 1503-98

The submission on November 21, 2003 of the COPY of the Preliminary Amendment previously filed on December 20, 2000 was in direct response to the examiner's request for a copy of the previously filed Preliminary Amendment, which Preliminary Amendment was received by the USPTO. Applicants submit that the Preliminary Amendment was complete and in full compliance of the rules when the Preliminary Amendment was filed, and Applicants request that the Notice of Non-Compliant Amendment be withdrawn and that the Preliminary Amendment filed December 20, 2000 be entered and considered.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 12/23/03

  
Anita L. Meiklejohn, Ph.D.  
Reg. No. 35,283

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110-2804  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906